

RAUL H. SESBREÑO, PETITIONER, VS. HONORABLE COURT OF APPEALS AND BENJAMIN RALLON, RESPONDENTS.

G.R. No. 105346. September 04, 1992

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

This petition for review on certiorari is an offshoot of Sp. Proc. No. 916-R of the Regional Trial Court, Branch 15, Cebu City, an intestate proceeding which has dragged on for the past forty (40) years.

Petitioner Raul H. Sesbreño acted as counsel for Crispin and Carlos Borromeo, both deceased, who were among the many heirs of the late Vito Boromeo. Private respondent Benjamin Rallon, meanwhile, was counsel of the Estate of Salud Borromeo and of the heirs of Marcial, Canuto and Asuncion, all surnamed Borromeo (Annex "A", Petition, p. 1).

On 17 February 1989, petitioner filed a motion to fix his attorney's fees before the trial court alleging that his legal services in the estate proceedings benefitted not only his clients but also private respondent and the other lawyers in this case. Thus, he demanded attorney's fees from the other heirs who were not his clients.

On 29 August 1989, the trial court granted the motion and assessed the other heirs "1/2 of 1% of whatever is due to them from the distribution of the residue of the Estate of Vito Borromeo" (Rollo, p. 49). Private respondent, along with Atty. Gabriel J. Canete, moved for its reconsideration.

On 30 January 1990, the trial court modified its earlier order by revoking the award of attorney's fees against the other heirs, said court noting that its award was not in consonance with law and jurisprudence as the other heirs had not contracted the services of petitioner. Besides, they were represented in the intestate proceedings by their respective counsel. Hence, petitioner's recourse to the Court of Appeals.

On 7 May 1991, the appellate court affirmed the questioned order of the trial court. It took note of the doctrine in *Borromeo-Herrera v. Borromeo*, G. R. No. L-41171, G.R. No. 55000, G.R. No. 62895, G.R. No. 63818 and G.R. No. 65995, all prom. 23 July 1987, 152 SCRA 171, a consolidated decision of five (5) incidents which all stemmed from Sp. Proc. No. 916-R. Particularly in G. R. No. 65995, We held that the lawyers in this case "should collect from the heirs-distributees who individually hired them." Since the Order of 29 August 1989 was contrary to the aforesaid ruling, respondent Court of Appeals declared it null and void.

Aggrieved by the decision of the Court of Appeals, petitioner instituted the instant petition for review. He now insists that the ruling in *Borromeo-Herrera*, supra, is not applicable to him because he was not a party in that claim for attorney's fees (Reply, p.3). He also contends that the Order Of 29 August 1989 of the trial court may no longer be altered or modified as it has already attained finality and been in fact partially satisfied. Petitioner further claims that Amelinda Talam, another heir, entered into an attorney-client relationship with him and, consequently, should be ordered to pay him attorney's fees.

Petitioner's contentions are devoid of merit.

A careful examination of Our decision in *Borromeo-Herrera*, supra, discloses that contrary to petitioner's assertion, the ruling for attorney's fees therein applies to all the lawyers appearing in the estate proceedings, docketed as Sp. Proc. No. 916-R, entitled "Estate of Vito Borromeo". This can readily be gleaned from that portion of the consolidated decision, notably in GR. No. 65995, where We said -

"We agree with the petitioners' contention that attorney's fees are not the obligation of the estate but of the individual heirs who individually hired their respective lawyers. The portion, therefore, of the Order of August 15, 1969, segregating the exorbitantly excessive amount of 40% of the market value of the estate from which attorney's fees shall be taken and paid should be deleted." (supra at p.195; underscoring ours).

Consequently, We ordered that –

"(6) The portion of the Order of August 15, 1969, segregating 40% of the market value of the estate from which attorney's fees shall be taken and paid should be, as it is hereby DELETED. The lawyers should collect from the heirs-distributees who individually hired them, attorney's fees according to the nature of the services rendered but in amounts which should not exceed 20% of the market value of the property the latter acquired from the estate as beneficiaries." (supra at p. 196; underscoring ours).

We note that the aforesaid decision, portions of which are herein reproduced, is not ambiguous. Instead, it clearly mandates that all lawyers should only "collect from the heirs-distributees who individually hired them". It applies to all the lawyers connected with the settlement of the Vito Borromeo estate and does not make reference to any lawyer or lawyers in particular. Such being the case, petitioner can only charge attorney's fees from the heirs--distributees who individually hired him and not from those heirs-distributees who hired other lawyers such as private respondent.

The Supreme Court is the final arbiter of all legal questions properly brought before it. Consequently, its decision in any given case constitutes the law of that particular case (*Festin v. Faderanga*, G. R. No. 57351, 16 January 1982, 111 SCRA 1). The only function of a trial court once it receives the judgment of the Supreme Court, or any higher court for that matter, is to order the execution of that judgment. It cannot interpret or reverse the judgment of the higher court (*Tan v. Court of Appeals*, G.R. No. 97238, 15 July 1991, 199 SCRA 212).

The Order of 29 August 1989 attempted to modify the decision in *Borromeo-Herrera*, supra, by assessing 1/2 of 1% of whatever is due to the heirs-distributees who did not hire petitioner as his attorney's fees. This is plainly in contravention of Our ruling that lawyers in this estate proceeding can only collect attorney's fees from the heirs-distributees who hired them. For this reason, the aforesaid Order is null and void, having been issued in excess of jurisdiction (see *Wong v. Intermediate Appellate Court*, G.R. No. 70082, 19 August 1991, 200 SCRA 792).

A void judgment is non-existent and therefore cannot acquire finality (*Barde v. Posiquit*, No. L-29445, 15 August 1988, 164 SCRA 304; *Metropolitan Waterworks & Sewerage System v. Sison*, No. L-40309, 31 August 1983, 124 SCRA 394). It is in legal effect no judgment or order at all (*Paredes v. Moya*, No. L-38051, 26 December 1974, 61 SCRA 526). Since the Order of 29 August 1989 was void from its incipience, it never attained finality, although it was partially executed. Hence, the trial court correctly declared said Order as partly null and void insofar as it assessed attorney's fees against the heirs-distributees who were not petitioner's clients (*Rollo*, p. 117). As succinctly noted by respondent Court of Appeals, "it took courage for the trial judge to reconsider" his erroneous order (Annex "A", Petition, p. 5).

Lastly, the allegation that Amelinda Talam was a client of petitioner deserves scant consideration. The alleged contract purporting to show that Talam was petitioner's client is nothing but a mere ex parte manifestation on Talam's part that she was agreeable to giving petitioner P5,000.00 out of the P20,000.00 set aside for attorney's

fees (Rollo, p. 46). Such acquiescence, however, was not an admission that she had in fact hired petitioner but, rather, its purpose was to facilitate the release of the P100,000.00 due her as petitioner had opposed any release of the shares due the heirs-distributees without first satisfying his alleged attorney's fees.

ACCORDINGLY, for utter lack of merit, the instant petition for review on certiorari is DENIED.

SO ORDERED.

Cruz, (Chairman), Griño-Aquino, and Medialdea, JJ., concur.

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